



BOULT ■ CUMMINGS®
CONNERS ■ BERRY PLC

RECEIVED

2005 APR 26

By: [Signature]
Email: hwalker@boultcummings.com

Henry Walker
(615) 252-2363
Fax (615) 252-6363

April 26, 2005

T.R.A. DOCKET ROOM

Honorable Pat Miller
Chairman, Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

VIA HAND DELIVERY

Re: *Petition of Xspedius Management Co. Switched Services, LLC for
Expedited Review of Central Office Code Denial.*
Docket No. 05-00113

Dear Chairman Miller:

Attached is the Petition of Xspedius Management Co. Switched Services, LLC for Expedited Review of Central Office Code Denial. I am writing you to respectfully request your consideration of possibly adding this petition to the agenda for May 16, 2005 TRA Conference, in the event that staff review is complete.

Thank you, and if you have any questions concerning this request, please feel free to call me at 252-2363 or directly to Xspedius by calling Pamela Rak at 636-625-7562.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

[Signature]
Henry Walker

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE
April 26, 2005**

In Re: Petition For Expedited Review Of Growth)
Code Denial By The Number Pooling)
Administrator Relating To Williamson Medical) DOCKET NO.: 05_____
Center)

**PETITION OF XSPEDIUS MANAGEMENT CO. SWITCHED SERVICES, LLC FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL**

Xspedius Management Co. Switched Services, LLC ("Xspedius"), a subsidiary of Xspedius Communications, LLC, respectfully requests that the Tennessee Regulatory Authority ("TRA") intervene and overturn or waive the denial by the Pooling Administrator, NeuStar, Inc. ("NeuStar"), of Xspedius' request for assignment of one NXX in the Franklin, Murfreesboro, and Nashville rate centers.

Xspedius has requested and been denied the numbering resources required to serve a customer requiring *intermediate* numbers in these rate centers. The intermediate number classification refers to a block of numbers given to another carrier or non-carrier entity for future assignment.¹ Although Xspedius requests the intermediate numbering resources and reports utilization and forecast data to NeuStar, subsequent allocation of the numbers is relinquished to Xspedius' customer, which then assigns these numbers to its end users. Xspedius' current numbering resources cannot accommodate this customer's initial growth requirements, which calls for a complete NXX (comprised of ten consecutive uncontaminated thousands blocks) in each of these three rate centers to provide a new e-fax service to end user customers. Thus, in order for Xspedius to serve this customer, it must have the numbering resources requested on this waiver in an expedited timeframe.

¹ 47 CFR §52.15 (f)(1)(v)

On March 12, 2005, NeuStar denied Xspedius' code request on the grounds that Xspedius had not met the months-to-exhaust and utilization criteria established by the FCC.² (See attached rate center worksheets, which correspond to the specified rate centers.) NeuStar denied Xspedius' code request despite the fact that Xspedius does not have adequate numbering resources to satisfy its customer's demands referenced above. (See Affidavit of Daniel Klaas, Manager Switch Translations).

Xspedius' inability to provide this important customer with the requested numbers within the same NXX prevents Xspedius from providing the quality of service this customer desires, needs, and expects. If Xspedius is not assigned the codes needed to meet its customer's request, Xspedius will be unable to provide the telecommunication services requested by the customer. NeuStar's refusal to grant numbering resources sufficient to meet the customer's needs is inconsistent with the FCC's position that "[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice from providers of their choice for a want of numbering resources."³

The FCC established a "safety valve mechanism," which delegates authority to state commissions to review the Pooling Administrator's decisions and reverse them when appropriate.⁴ The FCC allowed that "a carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier's inability to satisfy a specific customer's request,"⁵ as is the case in this instance. Additionally, states may grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a rate center that it cannot meet with its current inventory.⁶ The rate center

² 47 CFR §52.15(g)(3)(iii), CFR 47 §52.15(h)

³ FCC 00-429 at ¶61 (rel. Dec. 29, 2000)

⁴ FCC 01-362 at ¶61 (rel. Dec. 28, 2001).

⁵ Id. at ¶64

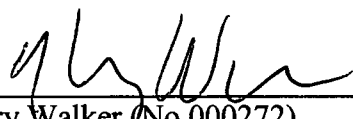
⁶ Id.

worksheets attached demonstrate that there are not adequate numbers in available inventory to meet a customer's demand for 10,000 numbers per rate center, much less 10,000 consecutive numbers.⁷ As required by the FCC, the customer requesting the additional numbering resources has documented its request.⁸ (*See* letter from customer to Xspedius.)

Xspedius requests that the TRA reverse NeuStar's decision to withhold numbering resources in the Franklin, Murfreesboro, and Nashville rate centers. The additional numbers requested by this application are necessary so that Xspedius' customer can meet the service demands of its e-fax customer, which in turn will be able to offer a valuable service to Tennessee consumers.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY,
PLC

By: 
Henry Walker (No.000272)
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, Tennessee 37219
(615) 252-2363

⁷ For example, in the Nashville rate center, Xspedius has 7,024 available numbers; in the Franklin rate center, Xspedius has 2,110 available numbers; while in the Murfreesboro rate center, Xspedius has only 1,036 available numbers. *See* page 3 of each specific rate center's worksheets for this information.

⁸ FCC 01-362 ¶64.

Affidavit of Daniel Klaas

STATE OF MISSOURI

COUNTY OF ST. CHARLES

I, Daniel Klaas, Manager Switch Translations, for Xspedius Communications, LLC, parent company of Xspedius Management Co. Switched Services, LLC ("Xspedius") being duly sworn, state that in such capacity I am personally familiar with the facts in this application;

1. Xspedius currently does not have the numbering resources it requires in order to serve the growth needs of a customer requesting a dedicated NXX in the Franklin, Murfreesboro, and Nashville rate centers for e-fax service;

2. The numbering resources Xspedius is requesting in this waiver will meet the immediate needs forecasted by the customer upon completion of its growth within the aforementioned rate centers;

3. I have personal knowledge of the facts herein and certify that they are true and correct to the best of my knowledge.

D. Klaas

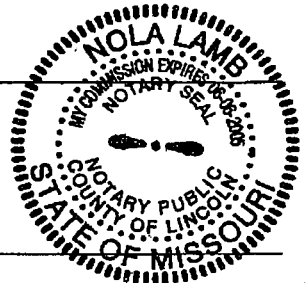
Signature of Affiant

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public in State and County above-named this 8 day of April, 2005.

Nola Lamb

Notary Public in and for
The State of Missouri

My Commission expires on: 06-06-2005



Pooling Administration System

 holly.kuester@xspedius.com (SP)

Sign Out

Request Resources

State

NPA

Rate Center

OCN

Type of Application

NOTE:

If you are selecting a Rate Center that is moving to a new NPA due to a split, PAS will automatically migrate the request to the new NPA once the mandatory dialing date occurs.

Pooling Administration System

Sign Out

 holly.kuester@xspedius.com (SP)

Request Full NXX (Dedicated Customer)

Do you already have a block/code in this rate center? <input checked="" type="radio"/> Yes <input type="radio"/> No
Will all blocks be activated on the same switch? <input checked="" type="radio"/> Yes <input type="radio"/> No
<input type="button" value="Back"/> <input type="button" value="Continue"/> <input type="button" value="Cancel"/>

Pooling Administration System

Sign Out

 holly.kuester@xspedius.com (SP)

Months to Exhaust and Utilization Certification Worksheet - TN Level

Date **Saturday, March 12, 2005**OCN **2432**Company Name **XSPEDIUS, LLC - TN**Rate Center **FRANKLIN**List all Codes NPA(s)-NXXs and Blocks NPA(s)-
NXX-X(s)

615-628-0,1,2,3,4,9

Name of Block Applicant **Mrs Holly Kuester**Title **Network Engineer**Telephone Number **(636) 625-7079**Fax Number **(636) 625-7193**E-Mail **holly.kuester@xspedius.com**A. Available Numbers * **2110**B. Assigned Numbers * **3890**C. Total Numbering Resources * **6000**D. Quantity of numbers activated in the past 90 days
and excluded from the Utilization calculation * **0**

List excluded Code(s) or Block(s)

E. Growth History - Previous 6 months² *

Month 1	3000	Month 2	11
Month 3	0	Month 4	1
Month 5	3	Month 6	2

F. Forecast - Next 12 months³ *

Month 1		Month 2	
---------	--	---------	--

	10000		0
Month 3	0	Month 4	0
Month 5	0	Month 6	0
Month 7	0	Month 8	0
Month 9	0	Month 10	0
Month 11	0	Month 12	0

G. Average Monthly Forecast (Sum of months # 1-6 (Part F above) divided by 6) **1666.667**

H. Months to Exhaust ⁴ (Numbers Available for Assignment to customers (A) / Average Monthly Forecast (G))

Block Requested
1

A. Available Numbers
2110

H. Months to Exhaust
1.266

I. Utilization⁵(Assigned Numbers (B)) / (Total Numbering Resources (C) - Excluded Numbers (D)) * 100

64.833

Explanation

1. A copy of this worksheet is required to be submitted to the Pooling Administrator when requesting additional numbering resources in a rate center. For auditing purposes, the applicant must retain a copy of this document.
2. Net change in TNs no longer available for assignment in each previous month, starting with the most distant month as Month #1, and Month #6 as the current month.
3. Forecast of TNs needed in each following month, starting with the most recent month as Month #1.
4. To be assigned an additional thousands-block (NXX-X) for growth, "Months to Exhaust" must be less than or equal to 6 months. (FCC 00-104, § 52.15 (g)(3)(iii)).
5. Newly acquired numbers may be excluded from the Utilization calculation (FCC 00104, section 52.15 (g)(3)(ii))

Show Calculations

Continue

Cancel

Pooling Administration System

 holly.kuester@xspedius.com (SP)

[Sign Out](#)

Months to Exhaust and Utilization Certification Worksheet - TN Level (Continued)

Your utilization calculates to 64.833 percent, while your State requires a utilization of 75.000 percent.

Select One Option and Submit

- ☒ Return to the Months To Exhaust Form
- ☐ Discard all the information provided for the request and start with a fresh Part 1A
- ☐ State Waiver Option

Pooling Administration System

 holly.kuester@xspedius.com (SP)

Sign Out

Request Resources

State

NPA

Rate Center

OCN

Type of Application

NOTE:

If you are selecting a Rate Center that is moving to a new NPA due to a split, PAS will automatically migrate the request to the new NPA once the mandatory dialing date occurs.

Pooling Administration System

 holly.kuester@xspedius.com (SP)

Sign Out

Request Full NXX (Dedicated Customer)

Do you already have a block/code in this rate center? <input checked="" type="radio"/> Yes <input type="radio"/> No
Will all blocks be activated on the same switch? <input checked="" type="radio"/> Yes <input type="radio"/> No
<input type="button" value="Back"/> <input type="button" value="Continue"/> <input type="button" value="Cancel"/>

Pooling Administration System

Sign Out

 holly.kuester@xspedius.com (SP)

Months to Exhaust and Utilization Certification Worksheet - TN Level

Date Saturday, March 12, 2005

OCN 2432

Company Name XSPEDIUS, LLC - TN

Rate Center MURFREESBORO

List all Codes NPA(s)-NXXs and Blocks NPA(s)-NXX-X(s)

615-692-0,5

Name of Block Applicant Mrs Holly Kuester

Title Network Engineer

Telephone Number (636) 625-7079

Fax Number (636) 625-7193

E-Mail holly.kuester@xspedius.com

A. Available Numbers * 1036

B. Assigned Numbers * 964

C. Total Numbering Resources * 2000

D. Quantity of numbers activated in the past 90 days and excluded from the Utilization calculation *

0

List excluded Code(s) or Block(s)

E. Growth History - Previous 6 months² *

Month 1	0	Month 2	7
Month 3	1	Month 4	4
Month 5	7	Month 6	2

F. Forecast - Next 12 months³ *

Month 1		Month 2	
---------	--	---------	--

	10000		0
Month 3	0	Month 4	0
Month 5	0	Month 6	0
Month 7	0	Month 8	0
Month 9	0	Month 10	0
Month 11	0	Month 12	0

G. Average Monthly Forecast (Sum of months # 1-6 (Part F above) divided by 6) **1666.667**

H Months to Exhaust ⁴ (Numbers Available for Assignment to customers (A) / Average Monthly Forecast (G))

Block Requested
1

A. Available Numbers
1036

H. Months to Exhaust
0.622

I. Utilization⁵(Assigned Numbers (B)) / (Total Numbering Resources (C) - Excluded Numbers (D)) * 100

48.200

Explanation

1. A copy of this worksheet is required to be submitted to the Pooling Administrator when requesting additional numbering resources in a rate center. For auditing purposes, the applicant must retain a copy of this document.
2. Net change in TNs no longer available for assignment in each previous month, starting with the most distant month as Month #1, and Month #6 as the current month.
3. Forecast of TNs needed in each following month, starting with the most recent month as Month #1.
4. To be assigned an additional thousands-block (NXX-X) for growth, "Months to Exhaust" must be less than or equal to 6 months. (FCC 00-104, § 52.15 (g)(3)(iii)).
5. Newly acquired numbers may be excluded from the Utilization calculation (FCC 00104, section 52.15 (g)(3)(ii))

Show Calculations

Continue

Cancel

Pooling Administration System

 holly.kuester@xspedius.com (SP)[Sign Out](#)

Months to Exhaust and Utilization Certification Worksheet - TN Level (Continued)

Your utilization calculates to **48.200 percent**, while your State requires a utilization of **75.000 percent**.

Select One Option and Submit

- ☒ Return to the Months To Exhaust Form
- ☐ Discard all the information provided for the request and start with a fresh Part 1A
- ☐ State Waiver Option

Pooling Administration System

 holly.kuester@xspedius.com (SP)

Sign Out

Request Resources

State

NPA

Rate Center

OCN

Type of Application

NOTE:

If you are selecting a Rate Center that is moving to a new NPA due to a split, PAS will automatically migrate the request to the new NPA once the mandatory dialing date occurs.

Pooling Administration System

 holly.kuester@xspedius.com (SP)

Sign Out

Request Full NXX (Dedicated Customer)

Do you already have a block/code in this rate center? <input checked="" type="radio"/> Yes <input type="radio"/> No
Will all blocks be activated on the same switch? <input checked="" type="radio"/> Yes <input type="radio"/> No
<input type="button" value="Back"/> <input type="button" value="Continue"/> <input type="button" value="Cancel"/>

Pooling Administration System

Sign Out

 holly.kuester@xspedius.com (SP)

Months to Exhaust and Utilization Certification Worksheet - TN Level

Date **Saturday, March 12, 2005**OCN **2432**Company Name **XSPEDIUS, LLC - TN**Rate Center **NASHVILLE**List all Codes NPA(s)-NXXs and Blocks NPA(s)-
NXX-X(s)

615-577-0,1,2,3,4,5,6,7,8,9
615-627-0,1,2,3,4,5,9

Name of Block Applicant **Mrs Holly Kuester**Title **Network Engineer**Telephone Number **(636) 625-7079**Fax Number **(636) 625-7193**E-Mail **holly.kuester@xspedius.com**A. Available Numbers * **7024**B. Assigned Numbers * **9976**C. Total Numbering Resources * **17000**D. Quantity of numbers activated in the past 90 days
and excluded from the Utilization calculation * **0**

List excluded Code(s) or Block(s)

E. Growth History - Previous 6 months² *

Month 1	2446	Month 2	97
Month 3	2216	Month 4	189
Month 5	11	Month 6	76

F. Forecast - Next 12 months³ *

Month 1		Month 2	
---------	--	---------	--

	10000		0
Month 3	0	Month 4	10000
Month 5	0	Month 6	0
Month 7	0	Month 8	0
Month 9	0	Month 10	0
Month 11	0	Month 12	0

G. Average Monthly Forecast (Sum of months # 1-6 (Part F above) divided by 6) **3333.333**

H. Months to Exhaust⁴ (Numbers Available for Assignment to customers (A) / Average Monthly Forecast (G))

Block Requested
1

A. Available Numbers
7024

H. Months to Exhaust
2.107

I. Utilization⁵(Assigned Numbers (B)) / (Total Numbering Resources (C) - Excluded Numbers (D)) * 100 **58.682**

Explanation

1. A copy of this worksheet is required to be submitted to the Pooling Administrator when requesting additional numbering resources in a rate center. For auditing purposes, the applicant must retain a copy of this document.
2. Net change in TNs no longer available for assignment in each previous month, starting with the most distant month as Month #1, and Month #6 as the current month.
3. Forecast of TNs needed in each following month, starting with the most recent month as Month #1.
4. To be assigned an additional thousands-block (NXX-X) for growth, "Months to Exhaust" must be less than or equal to 6 months. (FCC 00-104, § 52.15 (g)(3)(iii)).
5. Newly acquired numbers may be excluded from the Utilization calculation (FCC 00104, section 52.15 (g)(3)(ii))

Show Calculations

Continue

Cancel

Pooling Administration System

[Sign Out](#)[holly.kuester@xspadius.com](#) (SP)

Months to Exhaust and Utilization Certification Worksheet - TN Level (Continued)

Your utilization calculates to **58.682 percent**, while your State requires a utilization of **75.000 percent**.

Select One Option and Submit

- ☒ Return to the Months To Exhaust Form
- ☐ Discard all the information provided for the request and start with a fresh Part 1A
- ☐ State Waiver Option